

A BILL FOR AN ORDINANCE

RELATING TO PUBLIC SIDEWALKS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Council Findings and Purpose. The purpose of this ordinance is to prohibit, subject to exceptions, persons from sitting or lying on public sidewalks in areas near schools and public libraries.

The Council finds that:

1. Public sidewalks near elementary, intermediate (including middle), and high schools enable pedestrians, especially children (and their accompanying parents), to safely traverse to and from school to further their education and intellectual development.
2. Public sidewalks near public libraries also enable library patrons, especially children, the elderly, and the disabled, to safely traverse to and from the library and to use its many resources in furtherance of their education and intellectual development. Access to libraries is also important because libraries provide a cohesive public space for the community and serve as a means by which the public can access important information.
3. Sitting or lying down is not the customary use of public sidewalks. Persons who sit or lie down on public sidewalks impede and deter others from using public sidewalks; thus, they discourage the public from walking to and from a school or public library.
4. The need to maintain pedestrian sidewalks near schools and public libraries is greatest during the hours from 6:00 a.m. and 9:00 p.m., when children (and their accompanying parents) and library patrons are generally traversing to and from school and public libraries, respectively. Persons who sit or lie down on public sidewalks during those hours threaten their own safety and the safety of pedestrians, especially children, the elderly, and the disabled, who are put at increased risk when they must avoid and navigate around persons unexpectedly sitting or lying upon the public sidewalk.
5. The prohibition against sitting or lying on public sidewalks set forth in this ordinance leaves intact the individual's right to speak, protest, or engage



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in other lawful activity on any public sidewalk consistent with the individual's free speech rights.

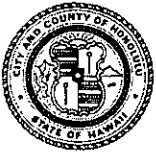
6. There are a number of places where the restrictions of this ordinance do not apply, including private property, plazas, public parks, and other common areas open to the public, where sitting and lying down will not unduly interfere with the safe flow of pedestrian traffic or threaten public safety. In addition, the prohibition contains exceptions for medical emergencies, and expressive activities, among others.
7. The Council acknowledges that there are reasons why one might sit or lie on a public sidewalk. The City has offered and continues to offer services to those engaged in sitting or lying on public sidewalks who appear to be in need, or to those who request service assistance. However, in many cases, these persons refuse such services or continue the conduct despite the accessibility of these services. The City will continue to invest in services for those in need and to make efforts to maintain and improve safety on public sidewalks for everyone. A law enforcement officer may not issue a citation to a person for a violation of this ordinance without first warning the person that sitting or lying down on a public sidewalk near a school or library is unlawful.
8. Current laws that prohibit the obstruction of sidewalks do not adequately address the safety hazards, disruption, and deterrence to pedestrian traffic caused by individuals sitting or lying on public sidewalks.

SECTION 2. Chapter 29, Revised Ordinances of Honolulu 1990 ("Streets, Sidewalks, Malls and Other Public Places"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Article ____ . Sitting or Lying on Public Sidewalks Near Schools and Public Libraries

Sec. 29-___.1 Prohibition-Exceptions-Citations.

- (a) No person shall sit or lie on a public sidewalk, or on a tarp, towel, sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public sidewalk located within 800 feet of the property line of an elementary, intermediate, or high school, or public library, during the hours from 6:00 a.m. and 9:00 p.m.



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b) Subsection (a) does not apply to:

- (1) Any person sitting or lying on a public sidewalk due to a medical emergency;
- (2) Any person who, as a result of a disability, is utilizing a wheelchair or other similar wheeled chair device to move about the public sidewalk;
- (3) Any person sitting or lying on a public sidewalk for the purpose of engaging in an expressive activity;
- (4) Any person sitting on a public sidewalk while attending or viewing any parade, festival, performance, rally, demonstration or similar event conducted on the street pursuant to a permit issued by the city;
- (5) Any person engaged in a maintenance, repair or construction activity on behalf of a governmental entity or a public utility;
- (6) Any child who is sitting or lying in a baby carriage, stroller, or carrier, or similar device, to move about the public sidewalk;
- (7) Any person sitting on a chair or bench located on the public sidewalk which is placed there by a public agency; or
- (8) Any person sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of a public sidewalk or enter a doorway or other entrance alongside a public sidewalk.

(c) No person shall be cited for a violation of this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

(d) As used in this section, unless the context requires otherwise:

"Expressive activity" means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas, and for which no fee is charged or required as a condition of participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.



CITY COUNCIL
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HONOLULU, HAWAII

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"Library" means a public library under the jurisdiction of the Hawaii State Department of Education or the Makiki Library under the jurisdiction of the city.

"Public sidewalk" means a publicly owned or maintained "sidewalk," as defined in Section 29-1.1, and includes a "replacement sidewalk" as defined in that section.

Sec. 29-___.2 Penalty.

Any person violating any provision of this article will, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS Sections 706-640 and 706-663, as amended."



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SECTION 3. This ordinance will take effect upon its approval.

INTRODUCED BY:

Sam Kahanashi

DATE OF INTRODUCTION:

OCT 04 2017

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20__.

KIRK CALDWELL, Mayor
City and County of Honolulu